Vietnam Revise Constitution To Protect Rights, Says HRW

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Vietnam's National Assembly should ensure that the country's revised constitution fully meets international human rights standards, Human Rights Watch said in a letter to the chairman of the National Assembly. Vietnam's parliament is considering and expected to vote on constitutional amendments during a session from October 21 until November 30, 2013.

National Assembly members stand at a historic crossroads and, regardless of the demands of the ruling Communist Party of Vietnam, should use this opportunity to bring meaningful change to a constitutional and legal system that has systematically denied the country's population their basic rights. Vietnam's 1992 Constitution was last amended in 2001.

"This is a once-in-a-generation opportunity to change Vietnam's constitution so that it protects basic freedoms, such as the rights to call for democracy or form independent trade unions and political organizations," said Brad Adams, Asia director. "The National Assembly shouldn't just make minor changes to a deeply abusive legal system, but should respond to public demands and move on fundamental constitutional reforms."

Although Vietnam is a one-party state and the Communist Party controls the process, by law it is the National Assembly that is empowered to amend the constitution. A number of officially proposed amendments to the constitution could advance human rights. For instance, whereas the 1992 Constitution only contains a single, pro forma, mention of human rights, the current draft refers to human rights repeatedly and in a manner indicating that they belong to everyone in Vietnam, both citizens and non-citizens. Other improvements in the draft include provisions on discrimination, access to legal counsel, fair trials, forced labor and the establishment of a Constitutional Council.

However, many exceptions and other loopholes substantially weaken human rights provisions on fundamental rights, such as freedom of expression, assembly, and association. Proposed amendments to the controversial article 4 of the constitution expand on the Communist Party's claim to leadership of the country – making it the "vanguard" not only of the Vietnamese "working class," as in the 1992 Constitution, but also of "the Vietnamese people," making political pluralism and genuine periodic elections impossible.

To facilitate a genuine reform agenda that protects basic rights and freedoms, the constitution should meet all of Vietnam's international legal obligations as a state party to international human rights treaties and conventions, while affirming that they have the force of law within Vietnam. The constitution should include clauses requiring that any limitations imposed on rights and freedoms are only those that are necessary in a democratic society and do not allow government entities or the courts to effectively undermine internationally recognized human rights.

"The Vietnamese people are rightly asking whether a new constitution will make a difference to their lives, or just be nice words on paper," Adams said. "There are so many exceptions and loopholes that it is fair to ask whether this is merely a public relations exercise. If the Communist Party is serious about reform, it will let the National Assembly prove the doubters wrong."

Vietnam's draft constitution was officially opened for public and official comment on January 2, 2013, with the publication of draft amendments to the existing 1992 Constitution. In an unprecedented move, the government invited public comments. Tens of thousands of Vietnamese have made written submissions. Vietnamese who have had the courage to campaign for changes to the constitution have been subject to an official campaign aimed at prohibiting views deemed unwelcome. This appears to have been a key factor in the December 27, 2012, arrest of lawyer Le Quoc Quan, who was sentenced on October 2 to 30 months in prison on trumped up charges of tax evasion. Other peaceful critics such as journalist Nguyen Dac Kien, blogger Nguyen Huu Vinh and Buddhist activist Le Cong Cau have also been targeted.

Vietnam's leaders have not given any indication that they support a less repressive approach to fundamental rights. Prime Minister Nguyen Tan Dung said in a March 19 speech on constitutional revision that the Communist Party, the state and "every single citizen" must "fight against unconstructive speeches and actions that sow division and harm solidarity in the Party and society." Reinforcing this, President Truong Tan Sang stated on March 27 that the new constitution must reflect Communist Party aspirations.

"It is deeply cynical to invite public comment on the draft constitution and then to put people in prison for expressing their views," Adams said. "If a new constitution accomplishes one thing, it should put an end to the arbitrary use of the law to imprison peaceful critics."

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